

### Remarks

Claims 1-21 are pending in the application. Claims 1-21 are rejected.

Claims 12-21 were rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement. Specifically, the claims prior to amendment read "without performing any public switched telephone conversion," which was found not to be supported in the specification. Applicants have amended this phrase to read, "eliminating any public switched telephone conversion," which is supported in the specification on page 4, lines 1-8, "The controller will also manage the direct sending of the packet data stream over the PSTN and the elimination of conversion to a PSTN data stream." As this amendment to the claims is clearly supported in the specification and overcomes the objection under 35 USC 112, withdrawal of this objection is requested.

Claims 1-6 and 9-11 were rejected under 35 USC 102(e) as being anticipated by Thornton (US Patent No. 6,363,065).

With regard to claims 1 and 11, the office action states, "Referring to Figure 1, packets are transmitted over the PSTN after the originating IP based device has its destination IP address translated by the gateway. See column 11, lines 1-4." This is not believed to be true on two issues. First, packets are not transmitted over the PSTN in any embodiment disclosed in Thornton. Second, the called number is only translated to a corresponding IP address if the PSTN is not going to be used.

With regard to the first point, the 'inventive gateway' 200 of Thornton is discussed in most detail with regard to Figure 2. During normal operation, the TDM (time-division multiplexed stream is used by the PSTN), switch routes that information to a T1/E1 line, which are lines used in PSTNs, if the PSTN route is going to be used. See column 12, lines 16-60. The inventive gateway allows the gateway to by-pass the data network when PSTN signaling is going to be used and the data is not converted to packets during this communication, but remains TDM. See also column 13, lines 28-34.

Secondly, as stated at the bottom of column 10, lines 65-67, "...a called number into a corresponding IP address and will route a telephone call through the data network in lieu of the PSTN. *Alternatively*, if the QoS of the data network is inadequate to support high quality speech, the originating gateway will route the call through the PSTN for conventional carriage therethrough to the called party." The 'conventional carriage' is that which is described in columns 12 and 13, cited above. The format of the called number is not an IP address, but an actual called number. By the text above, it is only converted if the call is going through the data network.

Therefore, the system disclosed in Thornton does not send signals identifying it as a packet device, as the signals transmitted through the PSTN are for the entire PSTN call. There is no reception by the network device of signals that indicate that another device on the PSTN network is a network device. Finally, as discussed above, there is no packet stream sent across the PSTN. These elements are required by both claims 1 and 11.

It is therefore submitted that claims 1 and 11 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claims 2-6 and 9-10 depend from claim 1 and should be ruled allowable for that reason and for their own merits. As discussed in detail above, the gateways in Thornton do not send packet data over the PSTN. Therefore, Thornton cannot show that the device sending the packet data over the PSTN is a voice gateway as in claim 2, that the packet data is voice as in claim 3, data as in claim 4, that the device includes a voice coder/decoder as in claim 5, or a modem as in claim 6. With regard to claims 9 and 10, there is no controller that routes the packets through the PSTN, inherent or otherwise, as the gateway of Thornton does not route packets across the PSTN. Further, the DSPs are only used when the call is a data network routed call, as is discussed at column 13, lines 48 through 67. It is therefore submitted that claims 2-6 and 9-10 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claims 7 and 12-21 were rejected under 35 USC 103(a) as being unpatentable over Thornton in view of Sebestyen (US Patent No. 5,847,752).

As discussed above, Thornton does not teach routing packet data over a PSTN. In Thornton, a call is routed either by TDM over PSTN, such as a T1/E1 line, or over a data network. Sebestyen does not address routing over the PSTN, as Sebestyen is directed to using ITU V.8 for video-telephone calls across different types of interfaces, but does not route packet data over a PSTN system.

With regard to claims 7 and 14, which depend from claims 1 and 12 respectively, Sebestyen does not overcome the deficiencies of Thornton as set out above. It is therefore submitted that claim 7 is patentably distinguishable over the prior art and allowance of this claim is requested.

With regard to claims 12 and 21, the combination of Thornton and Sebestyen does not teach transmitted packet data across the PSTN, as discussed in detail above. Sebestyen merely mentions that there is a capability exchange under ITU V.8. The identification is not used to identify packet devices over the PSTN, but merely to exchange capabilities between devices. Further, the data in Sebestyen is not routed through the PSTN as packet data.

It is therefore submitted that claims 12 and 21 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claims 13-20 depend from claim 12 and should be ruled allowable for that reason and for their own merits. As discussed above, Thornton does not teach dialing out of a PSTN network as in claim 13. While the use of the TDM link in Thornton does eliminate the use of a voice codec or a modem, it does not transmit the data as packet data, as in claims 15 and 16. The information on the other devices being gathered in claim 17 has nothing to do with routing tables, and that information is not used to alter the communications sessions as in claim 18. The communication session in the instant application is PSTN-only. There is no option of using the data network, so the storage of capability information or IP destination addresses has little to do with altering the communication session to send packets over the PSTN. The sending and receiving of identifying signals in claims 19 and 20 are those used to identify a packet device across the PSTN, not TDM signals sent to establish the call using PSTN as in Thornton.

It is therefore submitted that claims 13-20 are patentably distinguishable over the prior art and allowance of these claims is requested.

Claim 8 was rejected under 35 USC 103(a) as being unpatentable over Thornton. As discussed at length above, Thornton does not teach all of the limitations of the base claim, much less the further limitations of claim 8. It is therefore submitted that claims 1 and 14 are patentably distinguishable over the prior art and allowance of these It is therefore submitted that claim 8 is patentably distinguishable over the prior art and allowance of this claim is requested.

No new matter has been added by this amendment. Allowance of all claims is requested. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

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Respectfully submitted,

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